IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.5644/1997
Basudev & anr. V/s The State of Rajasthan & Ors.

DATE OF ORDER : : : 17.1.2007

PRESENT
HON'BLE MR. JUSTICE PREM SHANKER ASOPA

Mr.Bhanwar Bagri, for the petitioners.
Dr.A.S. Khangarot, Dy.GA, for the respondents.

By this writ petition, the petitioners have challenged the order of termination dated 30.5.1997 on the ground that 47 posts of Bio-Gas Mistri Gr.II have been abolished vide order dated 15.4.1997. The said order was challenged in SB civil writ petition No.2363/1997 – Rajesh Kumar Sharma & Ors. V/s State of Rajasthan & Ors. wherein an interim order was granted and subsequently, same was vacated, therefore, services of the petitioners as Bio-Gas Mistri have been terminated.

Submission of Mr.Bagri, counsel for the petitioners is that the petitioners have rendered 13 years of service, therefore, they are entitled for absorption. Otherwise also, writ petition No.2363/1997 has been allowed by this Court vide judgment dated 15th

December, 1998. The relevant para 6 & 7 of the said judgment are as follows:-

> "6. From the minutes of the meeting held on August 26, 1997 it is evident that the respondents intend to absorb the petitioners and other similarly situated persons but the decision to absorb the persons on contract basis does not appear reasonable. When Bio Gas Mistris Grade I were absorbed as per their qualifications and technical know how, why step motherly treatment is given to Bio Gas Mistries Grade II. The State Government should behave like a Model employer. The respondents are expected not to exploit the petitioners, nor should they seek to take advantage of the helplessness of the petitioners. After perusal of the decision taken in the meeting held on August 26, 1997, it is not necessary to discuss the stand of the respondents taken in their reply. Suffice it to say that absorption of the petitioners and the similarly situated persons should be made on equivalent posts as per their qualifications and technical know how. It will not be proper to appoint them on contract basis. Their absorption shall be made after keeping in mind their length of service and safeguarding their pay scales.
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> 7. For the reasons aforementioned, I find merit in the writ petition, it is accordingly allowed. The respondents are directed to absorb the petitioners on equivalent posts as per the qualifications and technical know how, after keeping in mind their length of service and safeguarding their pay scales. This exercise shall be made within two months from the date of receipt of this order. No costs."

A bare perusal of the aforesaid paras would reveal that this Court has observed that the State Government should behave like a Model employer and the respondents are expected not to exploit the petitioners nor should they seek to take advantage of

the helplessness of the petitioners. The Court had directed to absorb the petitioners in the said case and similarly situated persons on equivalent post as per their qualification and technical know how.

On 15.1.2007, the case was fixed for 16.1.2007 and on 16.1.2007, the case was fixed for 17.1.2007 to enable the Dy. Government Advocate to apprise the Court about filing of the appeal or latest position of the aforesaid judgment, but the Dy. Government Advocate is unable to say anything about the aforesaid issue. However, the Government Advocate does not dispute that the relief claimed by the petitioners is identical to the relief which has been granted by this Court in case of Rajesh Kumar Sharma & Ors. - SB Civil Writ Petition No.2363/1997.

Heard counsel for the parties and further gone through the record of the case.

In view of above, the writ petition is allowed. The termination orders of the petitioners dated 30.5.1997 are quashed and the respondents are directed to absorb the petitioners as per their qualification and technical know how within a period of 3 months from the date of passing of the order.

(P.S. ASOPA) J.

ummed/-